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Committee on Non-Governmental Organizations
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Special reports

Note by the Secretary-General*

I. Introduction

1. At its 2001 resumed session, the Committee on Non-Governmental Organizations, in accordance with paragraph 61 (c) of Economic and Social Council resolution 1996/31 of 25 July 1996, requested France Libertés: Foundation Danielle Mitterrand (a non-governmental organization with special consultative status) to submit a special report on the organization's position regarding China's sovereignty over Tibet.

2. The Committee also requested the following organizations to submit additional reports:

New Human Rights

Movement against Racism and for Friendship among Peoples

II. Background

3. At the 2001 regular session of the Committee, the representative of the Islamic Republic of Iran lodged formal complaints against the following (see E/2001/86, para. 112):

(a) International Association of Democratic Lawyers;

(b) New Human Rights;

(c) Movement Against Racism and for Friendship among Peoples;

* The footnote required in accordance with paragraph 8, section B, of resolution 53/208, by which the General Assembly decided that if a report is submitted late to the conference services, the reasons for this should be included in a footnote to the document, was not included in the original submission.

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(d) International Federation of Human Rights Leagues;

(e) Women's Human Rights International Association.

4. At the 39th and 40th meetings of its 2001 resumed session, the Committee reviewed the special reports from the five non-governmental organizations (see E/C.2/2001/3/Add.2). While the special report from the International Association of Democratic Lawyers was accepted, the Committee requested additional special reports from New Human Rights and the Movement Against Racism and for Friendship among Peoples and deferred consideration of the special reports on the International Federation of Human Rights Leagues and Women's Human Rights International Association to its next session for further review.

5. At its 38th meeting, the Committee had before it a quadrennial report by France Libertés: Foundation Danielle Mitterrand (non-governmental organization with special consultative status granted in 1991) covering the reporting period of 1995-1998. The Chinese delegation requested that the organization submit a special report on the organization's position regarding China's sovereignty over Tibet. The Committee decided to defer consideration of the quadrennial report pending the receipt of a special report from the organization.

III. Additional special report submitted by New Human Rights

Background

6. New Human Rights is a national non-governmental organization and was granted consultative status in the special category in 1995.

7. At the 2001 regular session of the Committee on Non-Governmental Organizations, the representative of the Islamic Republic of Iran lodged formal complaints against five non-governmental organizations of which New Human Rights was the first.

8. The grounds for the complaint by the Islamic Republic of Iran was that the above non-governmental organization had provided the opportunity to individuals who were members of the Modjahedin Khalgh Organization/National Council of Resistance (MKO/NCR), a movement considered a terrorist one in the Islamic Republic of Iran, to take part in the fifty-seventh session of the Commission on Human Rights (see E/2001/86, paras. 111 and 112).

9. At the 2001 regular session, the Committee decided that the organization should be asked to present a special report on the issues brought to the attention of the Committee by the Islamic Republic of Iran. The Secretariat transmitted the request for the special report to New Human Rights.

10. At its 2001 resumed session, the Committee reviewed the special report presented by the New Human Rights at its 39th and 40th meetings (E/C.2/2001/3/Add.2).

11. The representative of the Islamic Republic of Iran expressed his dissatisfaction with the special report presented by the New Human Rights. While reviewing the special report of the New Human Rights, the representative of the Islamic Republic of Iran introduced additional information on the participation of MKO/NCR

members at the fifty-seventh session of the Commission on Human Rights and at the Third Committee of the General Assembly. He further requested that the new special report be based on the additional information provided. The Committee decided to request New Human Rights to submit an additional special report.

Additional special report

[Original: English]

[21 February 2002]

This report is presented in compliance with the request made by the NGO Committee on January 18, 2002. This request was originally the result of the complaint made by the Government of the Islamic Republic of Iran (Iran) in May of 2001. A complaint that was later substantiated during the NGO Committee's Meeting of January 18 by documentation presented by the Representative of Iran, participating as an observer. At this Meeting the NGO Committee recommended that NHR present a Second Special Report, taking into account the additional documentation presented by Iran. Under these circumstances we understand that the content of our initial Special Report, which now requires review, is the section starting with "New Human Rights rejects..." until "...denouncing violations perpetrated there", which will now be the object of our clarifications.

With this understanding we are assuming that the rest of our original Special Report, which states our goals and our commitment to the work of the United Nations in the area of human rights, need not be altered and should be considered an integral part of this second Special Report.

With regard to the pertinent request we wish to present the following points to the Committee's consideration:

We wish to clearly state that we did not knowingly violate the rules referred to in the complaint (ECOSOC Resolution 1996/31, par. 57a, and Document E/CN.4/2001/CRP.1). Such a violation would be foreign to our ethics and to the very principles we defend when engaging in actions protective of human rights. We can state this with a clear conscience because although we knew the accredited witnesses were members of CNR we did not know of the connection CNR/MKO as presented in the papers distributed at the January 18 Meeting. If we had had our doubts we would have certainly attempted to clarify the situation before providing accreditation. In fact we feel that the documentation presented by the the Representative of Iran, in Farsi, at the January 18 Meeting supports our position, as all the papers distributed were dated after the meetings of the Commission on Human Rights in Geneva, not before.

We fully recognize that the complaint and the nature of the discussion at the January 18 Meeting, are extremely delicate matters and present an NGO with an extremely difficult situation vis-à-vis governments. In fact it could be argued that in order to avoid such complaints, beyond normal caution in such cases, an NGO would have to either have an intelligence service capability of its own, or consult with a government's intelligence services, either directly or indirectly.

The only resource currently at our disposal to face this difficulty is what is known as an "honor system". Such a system is based on two pillars. One of these is the honorableness of the members of an NGO. The other is the honorableness of the witnesses an NGO accredits. As to the first of these, the only guarantees we can offer as examples are that two of our past Honorary Presidents were Mr. Leopold Senghor and Mr. Jacques Chaban-Delmas, and our current Honorary President in Buenos Aires is Mr. Ernesto Sabato. In addition, our current presidents in Paris and Buenos Aires are Mr. Pierre Bercis (member of the National Consultative Commission on Human Rights of France) and Senator Hipolito Solari Yrigoyen (member and Vice-President of the UN Committee on Human Rights). Regarding the second pillar, we can only trust the consistency of a person's character and references and the consistency of his/her testimony vis-à-vis other available information. In the case we are dealing with this meant the Copithorne Report, documents of the UN Committee on Human Rights, and reports of Amnesty International and Human Rights Watch.

The above criteria obviously leave a Human Rights NGO vulnerable to situations such as we are dealing with. As it is not our role to dispute the documents presented in Farsi by the Representative of Iran, and as they were apparently accepted by the Delegations that spoke at the January 18 Meeting, the nub of the question we face, as also indicated by the Delegations including the Representative of Iran, is how to avoid future delicate situations of this type without impairing the important work Human Rights NGO's do in favor of sustaining such rights.

In this respect we offer the Committee the following facts, commitments and contributory thoughts:

a) **Our Representative at the January New York Meetings held very constructive informal discussions with the Representative of Iran, as well as other Delegations which we sincerely appreciate given the circumstances as proof of the importance of dialogue.**

b) **We commit our NGO as a matter of principle, to ensuring extreme care when accrediting witnesses and/or representatives at sessions of the Commission on Human Rights.**

c) We fully agree with the comments made by the Chairman at the NGO Committee's Meeting of January 14, as well as comments by Delegations during the afternoon Meeting of January 18. These were to the effect that

accreditation procedures, as well as organizational procedures at Commission meetings, must be improved and that all Human Rights NGO's must take more care in abiding by them. Within this intended framework, as NHR, we commit ourselves to making the greatest efforts to avoid future problems with the accreditation of witnesses.

d) We also respectfully wish to express our concern that some balance be maintained, such that the invalidation of a witness need not imply the invalidation of his/her testimony. Especially from the human rights perspective given the new meaning that the words "terrorist" and "terrorism" have recently acquired on the world stage. Within this context, we would like to clarify a question of semantics when we made reference in our first Special Report to the witnesses as "opponents to the regime". In that instance, our statement did not reflect in any way our own stance as an NGO committed to observe political neutrality in regard to all UN member states. We solely meant that we wished to suggest that it is in the nature of human rights witnesses to be "opponents" to a government which is responsible for the protection of human rights and yet they believe is violating them. We further reiterate here a point that was made in our first Special Report which emphasized that, the nature of such "opposition" must be non-violent. We could not present testimony against human rights violations if those who give that testimony practice violence themselves as a tool of politics.

In fact in order to substantiate this position more clearly we declare that we subscribe to the definition of "terrorism" as given in the US Code: "[An] act of terrorism, means any activity that (A) involves a violent act or an act dangerous to human life that is a violation of the criminal laws of the United States or any State, or that would be a criminal violation if committed within the jurisdiction of the United States or any state, and (B) appears to be intended (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; (iii) to affect the conduct of a government by assassination or kidnapping." *(United States Code, Congressional and Administrative News, 98th Congress, Second Session, 1984, Oct. 19, volume 2; par 3077, 98 STAT.2707. West Publishing Co., 1984)*

e) Given the importance of the issue relating to our NGO and even though our Representative's place of residence is in the Washington, DC, area and all his expenses were to be out of personal pocket, we made it a point that he attend the Meetings from January 16 to 18, so as to make himself available to the Delegations, given the sensitive nature of the complaint. As it later became necessary to prepare this Second Special Report we feel his presence was most useful.

f) Given the nature of the documentation distributed by the Representative of Iran, we wish to clarify the different spellings of the names of the witnesses we accredited, and attended the 2001 meeting of the Commission on Human Rights, which have appeared in different documents. The original spellings are those of our letter of accreditation in which we presented Mr. Ehzar Naziri and Mr. Hamid-Reza Eshagui, the document of the Geneva Sessions mentions Mr. Naziri and Mr. Hamid-Reza Eshaghi, while our Special Report refers to these two witnesses as Ehzar Nazin and Hamid-Reza Eshagui. For future reference we understand the names should be spelt Ehzar Naziri and Hamid-Reza Eshaghi.

g) Finally, we wish to ratify to the distinguished members of the NGO's Committee our absolute identification with the goals of the United Nations and all its instruments pertaining to human and humanitarian rights, as is stated in NHR's statutes and is corroborated by our permanent commitment to ensuring these rights and their universality. We conclude with our further commitment to collaborate with the NGO's Committee, as well as to respect and apply its recommendations and resolutions.

IV. Additional special report submitted by the Movement against Racism and for Friendship among Peoples

Background

12. The Movement against Racism and for Friendship among Peoples is an international non-governmental organization in roster consultative status with the Economic and Social Council since 1974.

13. At the 2001 regular session of the Committee on Non-Governmental Organizations, the representative of the Islamic Republic of Iran lodged formal complaints against five non-governmental organizations of which the Movement Against Racism and for Friendship among Peoples was the second.

14. The grounds for the complaint by the Islamic Republic of Iran was that the above non-governmental organization had provided the opportunity to individuals who were members of the Modjahedin Khalgh Organization/National Council of Resistance (MKO/NCR), a movement considered a terrorist organization by the Islamic Republic of Iran, to take part in the fifty-seventh session of the Commission on Human Rights (see E/2001/86, paras. 111 and 112).

15. At the 2001 regular session, the Committee decided that the organization should be asked to present a special report on the issues brought to the attention of the Committee by the Islamic Republic of Iran. The Secretariat transmitted the request for the Special Report to the Movement Against Racism and for Friendship among Peoples.

16. At its 2001 resumed session, the Committee reviewed the special report from the Movement Against Racism and for Friendship among Peoples at its 39th and 40th meetings (see E/C.2/2001/3/Add.2).

17. The representative of the Islamic Republic of Iran expressed his dissatisfaction with the special report presented by the Movement against Racism and for Friendship among Peoples. While reviewing the special report of the Movement against Racism and for Friendship among Peoples, the representative of the Islamic Republic of Iran introduced additional information on the participation of MKO/NCR members at the fifty-seventh session of the Commission on Human Rights and at the Third Committee of the General Assembly. He further requested that the new special report be based on the additional information provided. The Committee decided to request the Movement against Racism and for Friendship among Peoples to submit an additional special report.

Additional special report

[Original: French]

[25 February 2002]

The Movement against Racism and for Friendship among Peoples (MRAP) acknowledges with thanks your letter of 31 January and the attached file. The Committee on Non-Governmental Organizations has asked MRAP to comment on the documents concerned and on the request by the Islamic Republic of Iran that persons known to be members of MKO/NCR should no longer be accredited.

It is very difficult to express an opinion on the significance of press cuttings in Farsi of which only the titles have been translated, and that not in all cases. Without knowing the texts, it is not possible to determine whether the persons accused, photographs of whose faces are provided, have in their public statements claimed to represent MRAP or other organizations. We continue to affirm that, during sessions of the Commission on Human Rights and of the Subcommission, this has not been the case. Our Movement has not authorized any person to speak in any other capacity than as its own delegate and in defence of the beliefs of MRAP.

As for the General Assembly of the United Nations, we have never accredited to it any person other than our permanent representatives (such as Mr. Robert Harvey, who attended the meeting of the Committee).

As for the merits of the case, MRAP can only stand by the contents of its report. There is no doubt that efforts should be made to refrain from provoking diplomatic missions — which have the means to respond — and that human rights issues only should be raised, as they are listed on the agenda, without criticizing the domestic political regimes of States. That is indeed what our representatives do, and this can easily be checked with the Commission secretariat, which has access not only to the official records of meetings, but also to the texts of statements.

Our permanent representative in Geneva has been asked by other organizations to preside over the Non-Governmental Organizations Subcommittee on Racism, Racial Discrimination, Apartheid and Decolonization. This could not have happened if he had violated rule 37 of the rules of procedure and if he was pursuing political objectives contrary to the ideals of the United Nations and the Universal Declaration of Human Rights.

On the subject of the Islamic Republic of Iran, our statements have merely reiterated the ideas and even repeated the words contained in the text produced by the Special Rapporteur, Mr. Copithorne.

It can hardly be argued that MRAP fails in its duty of objectivity, as would terrorists; terrorism always refuses dialogue and prefers violence. What we seek is progress in the exercise of all freedoms, in women's rights in the treatment of detained and convicted persons, etc. We also seek significant progress in Europe on issues such as equality between nationals and foreigners, and serious efforts by Governments to reduce racism and discrimination. In short, our attitude is always constructive.

Human rights evolve as a result of historical changes. No State, whatever its ideology and political system, can escape that evolution.

However, given the current world situation, misunderstandings are likely to arise and may become obstacles to desirable changes. The notion of terrorism is referred to everywhere, sometimes in an arbitrary manner. The Commission on Human Rights at its fifty-eighth session will certainly tackle this fundamental question of terrorism or of the "different types" of terrorism; some light will probably be shed on the subject, and perhaps answers will even be found to issues which are still pending.

Accreditations requested by non-governmental organizations depend on the matters which are on the agenda. This year, the Commission will certainly give considerable attention to the "post-Durban" situation and to development-related issues.

This year, in the light of the circumstances described above, MRAP will not raise the Iranian issue.

Perhaps in the coming months the Special Rapporteur will have cause to welcome some progress he has observed in Iranian society. This is what we have wished for all along.

V. Special report by France Libertés: Fondation Danielle Mitterrand

Background

18. France Libertés: Fondation Danielle Mitterrand is an international non-governmental organization and was granted consultative status in the special category in 1991.

19. At its 2001 regular session the Committee reviewed the quadrennial report of France Libertés: Fondation Danielle Mitterrand for the period 1995-1998, which had been submitted for review by the Committee in 2000. Referring to the statement presented by the organization on agenda item 12 at the fifty-first session of the Commission on Human Rights entitled, "Question of the violation of human rights and fundamental freedoms", the Chinese delegation requested the organization to provide detailed information on its statement on Tibet to the Commission on Human Rights at its fifty-first session. The Chinese delegation further requested the organization to describe the methodology it used to gather data.

20. At its 2001 resumed session, the Committee examined the response submitted by the organization to questions posed by the Committee at its 2001 regular session.

21. Having reviewed the report, the Chinese delegation requested that the organization submit a special report on its position regarding China's sovereignty over Tibet. The Committee decided to defer consideration of the quadrennial report pending the receipt of a special report from the organization.

Special report

[Original: French]
[25 February 2002]

France Libertés: Fondation Danielle Mitterrand has had consultative status with the Economic and Social Council since 1986. In accordance with that status and with its mission to defend human rights, its representatives have frequently spoken at various meetings of the Commission on Human Rights and of the Subcommission.

At the session of the Committee on Non-Governmental Organizations held in New York from 14 to 25 January 2002, the four-yearly report of France Libertés, summarizing its activities from 1995 to 1998, was considered.

During that session, the delegation of China expressed the opinion that France Libertés failed to recognize the fact that Tibet was an integral part of China, thereby undermining China's sovereignty, and called for the application of paragraph 57 (a) of Economic and Social Council resolution 1996/31, which provides that the consultative status of non-governmental organizations may be suspended or withdrawn "if an organization (...) clearly abuses its status by engaging in a pattern of acts contrary to the purposes and principles of the Charter of the United Nations including unsubstantiated or politically motivated acts against States Members (...) incompatible with those purposes and principles".

At the request of the delegation of China, the Committee on Non-Governmental Organizations requested France Libertés to submit a special report on its position regarding the sovereignty of China over Tibet.

The purpose of this document is to explain that France Libertés has complied with the rules observed by the Commission on Human Rights in the organization of its work and the conduct of its proceedings (E/CN.4/2001/CRP.1).

Article 1 of the statutes of France Libertés states that the organization's prime objective is to contribute to the emergence and the strengthening of individual and collective freedoms throughout the world and to assist those working towards that objective.

It was for this purpose that in 1986 France Libertés obtained consultative status with the Economic and Social Council of the United Nations, founding its activities upon respect for the Universal Declaration of Human Rights.

In accordance with these principles, France Libertés has on several occasions, during sessions of the Commission on Human Rights and of the Subcommission, denounced China's serious human rights violations in Tibet and its attacks upon the fundamental freedoms of that country's people.

Our position on Tibet is based on Article 1 of the Charter of the United Nations, paragraph 2 of which defines the purpose of the United Nations as "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace".

The right of the Tibetan people to self-determination has also been recognized by the General Assembly of the United Nations, for example in its resolution 1723

(XVI), adopted in New York in 1961. The fundamental rights of the Tibetan people were confirmed by General Assembly resolution 2079 (XX), adopted in New York in 1965.

The Chinese authorities, through their presence and actions in Tibet, prevent the Tibetan people from exercising its right to self-determination, which is recognized in the resolutions of the General Assembly of the United Nations, representing all Member States and the international community.

The Chinese army invaded and occupied Tibet in 1949-1950. This occupation has been denounced by many international bodies, including the European Parliament, particularly in its resolutions of 6 July 2000 (B5-0608, 0610, 0617 and 0641/2000) and 14 May 1998 (B4-0511, 0537 and 0538/98).

France Libertés remains gravely concerned at numerous human rights violations stemming from the denial by the People's Republic of China of the right to self-determination of the Tibetan people. Many first-hand accounts, reports and resolutions bear witness to the human rights abuses by China, including summary executions, torture, imprisonment and harassment. Furthermore, the policies of the Government of China seriously undermine the cultural identity of the Tibetan people by suppressing the various manifestations of its national, cultural and religious identity.

These constant violations of fundamental rights in Tibet are denounced by non-governmental organizations but also, more importantly, by many national and international bodies.

Examples of these denunciations include:

- United Nations General Assembly resolution 1353 (XIV) (New York, 1959);
- Resolution 1991/10 of the Subcommission on Prevention of Discrimination and Protection of Minorities of the Committee on Human Rights (Geneva, 23 August 1991);
- Resolutions of the European Parliament dated 14 October 1987, 15 March 1989, 16 November and 15 December 1992, 15 September 1993 and 13 April 2000 (Strasbourg);
- Resolutions 129 (16 September 1988), 82 (15 March1989), 63 (16 May 1989), 275 (5 April 1990), 107 (18 April 1991), 271 (18 March 1992) and 188 (26 July 1993) of the Congress of the Unites States of America.

In conclusion, the position of France Libertés complies fully with the Charter of the United Nations and the Universal Declaration of Human Rights; it advocates respect for the rights of the Tibetan people and serves as a reminder that the right of peoples to self-determination is a fundamental principle of human rights.

Lastly, France Libertés believes that respect for the right of self-determination should be considered as essential to the process of reconciliation and peace-building in the region.

France Libertés therefore invites the Chinese authorities to begin such a process with the proper representatives of the Tibetan people, such as the 1989 Nobel Peace Prize laureate, the Dalai Lama.